



## ACTIVITIES AND EXPENDITURES REPORT July 1 – December 31, 2022

The following report of activities and expenditures of the State Public Defender is submitted in accordance with Miss. Code §§ 99-18-1 and 99-18-15. Agency expenditures can be found at [www.transparency.ms.gov](http://www.transparency.ms.gov). A docket of potential death penalty eligible cases in the circuit courts and rosters of all death penalty cases in the state are available on our webpage at <http://www.ospd.ms.gov/CapDefInfo.htm>.

### **STATE DEFENDER**

In July, the Office of the State Public Defender (“OSPD”) submitted a revised 5-Year Strategic Plan and FY 2024 Budget Request. OSPD working with local defender leaders has developed a new proposal for state support for indigent defense. The recommendation modifies the Public Defender Taskforce recommendation by eliminating the proposed commission and state funded district defender positions.

Phase 1 of the new proposal would create a state grant program to be administered by OSPD. The proposal is to help create three pilot projects, one in each Supreme Court District. The southern and northern districts would be multi-county systems to help rural county delivery services in most efficient way. The central district project would be tailored to the unique needs of the city of Jackson. The goal of the proposal is to remedy four of the most serious deficiencies identified by the taskforce studies: lack of early entry in cases, lack of pay parity between defenders and prosecutors, lack of support services such as social workers and excessive caseloads.

The State Defender serves on the Corrections and Criminal Justice Oversight Taskforce and the Supreme Court’s Children’s Justice Commission. In October the State Defender provided testimony to the House Judiciary B Committee on Crime in the Capitol City. He also submitted written testimony to the Senate Study Committee on Women, Children and Families regarding the vital role parent defenders play in the Child Welfare System.

### **Special Defender Unit for 7<sup>th</sup> Circuit Court District based in Jackson**

The 2022 Legislature appropriated \$744,532 to the Office of State Public Defender (OSPD) from the Coronavirus State Fiscal Recovery Fund. (HB 1627) The purpose of the appropriation was to create and operate a public defender office to augment criminal defense services to indigent defendants in the 7<sup>th</sup> Circuit Court District. OSPD has designated this office the OSPD Special Defender Unit. The unit works under the State

Defender in collaboration with the Hinds County Public Defender Office (HCPDO) to help reduce any case backlog associated with the Covid-19 pandemic.

Staffing and service delivery are modeled on the Division of Capital Defense Counsel at OSPD. OSPD has assembled a team of attorneys, a social worker, investigator, and administrative support (legal secretary). The attorneys began work August 1, 2022, and the legal secretary began work on September 1, 2022. OSPD contracts with a private investigator for fact investigation and with a forensic social worker for client's social service needs and case development.

Since August 1, 2022, OSPD Special Defender Unit has opened 206 cases (191 clients, 347 charges), 115 indicted cases (176 charges) and 91 dead-zone cases (171 charges). Sixty-eight (68) cases involved a homicide charge or charges.

By January 2023, the Unit had 137 active cases (126 clients, 228 charges), 82 indicted cases (132 charges) and 55 dead-zone cases (96 charges). Fifty-eight (58) cases involve a homicide charge or charges. One-hundred and seven (107) are in jail and three in MDOC custody.

Of the 33 indicted cases closed: 2 were tried to verdict, 13 plead guilty, 5 were dismissed/remanded, and 13 were reassigned. Of the 38 dead-zone cases closed: 11 were indicted, 2 no billed, 11 released from jail, 5 plead on bill of information, 8 reassigned, and one did not have a felony charge pending. He was being held for a \$1000 debt owed to Jackson city court. Once this was discovered his release was secured.

## **CAPITAL DEFENSE**

At current staffing Capital Defense can handle up to 10 new trial level cases per year and 2 new appellate cases per year. This assumes local counsel will be appointed at the trial level.

Currently the division is representing 9 clients at the trial level and two clients at the direct appeal stage. These are all the direct appeal cases pending. The division filed the Brief of Appellant in one case on September 28, 2022. A Petition for Certiorari in the second case was filed on November 8, 2022. One case was tried to verdict in December.

## **INDIGENT APPEALS**

Since July 1, 2022, Indigent Appeals ("IAD") filed 53 briefs. IAD currently has 166 open cases including 54 awaiting the filing of the record and briefing schedule. Two cases have been assigned to a *pro bono* lawyer from the firm of Forman, Watkins and Kritz LLP. The firm previously worked with OSPD providing *pro bono* representation in *Miller* cases and is now in its second year of partnering on appeals.

Staff attorney Hunter Aikens serves as co-counsel in a death penalty appeal handled by the Capital Division. This assignment took him out of the regular case assignment rotation for about nine months. Justin Cook and Mollie McMillin had oral arguments before the Court of Appeals in Starkville November 9.

There are seven additional cases with independent outside counsel hired on contract due to conflicts.

IAD caseload has returned to pre-pandemic levels. The number of briefing schedules issued and number awaiting briefing schedule are at their highest since Q3 of SFY 2018. The number of pending cases is higher than the Q4 2020 level. The briefs in progress are highest since Q3 2019.

The staff attorneys of IAD routinely answer questions and conduct research for trial level defenders in the field. IAD also assists with moot courts for defenders inside and outside the office preparing for oral arguments and handling oral arguments. IAD attorneys also serve on the Supreme Court committees and Mississippi Bar committees.

## **DEFENDER TRAINING**

The Training Division continues to offer trainings in multiple formats: distance learning, virtual, in person and hybrid. Two hybrid trainings were held in September 2022 and a third in October.

The Parent Defender Certification Training was held September 21-22, 2022, at the Golden Nugget Hotel and Casino in Biloxi, Mississippi. We offered 7 CLE hours (including 1 ethics hour). There were 20 in-person attendees and 11 virtual attendees. In total, there were 27 attorneys that were certified at this training. Forty-seven attorneys are current with certification.

The Youth Defender Certification Training was held September 22-23, 2022, at the Golden Nugget Hotel and Casino in Biloxi, Mississippi. We offered 7 CLE hours (including 1 ethics hour). There were 32 in-person attendees and 13 virtual attendees. In all, there were 37 attorneys that were certified at this training. Sixty attorneys are current with certification.

In October the general criminal defense training seminar was held in Tupelo. Twelve and one-half hours of CLE (including 1 ethics hour) were provided. The program was designed with assistance from the state-federal training working group and participants included both state public defenders and appointed counsel as well as lawyers from the federal defender office in Mississippi and CJA panel attorneys. Honored guests included members of the Magnolia Defenders, a student organized group at the University of Mississippi School of Law. A total of 92 attended in person and 26 virtually.

In addition to these trainings, Training Director Erin Briggs, became a member of the inaugural NLADA Racial Equity Institute – Diversity Equity and Inclusion Fellowship. This six-month training institute is aimed at introducing and equipping fellows with the core competencies on racial equity required to launch and implement DEI initiatives within our organizations and beyond. The fellowship is virtual with monthly meetings that will conclude in February 2023.

## **PARENT DEFENSE**

The Parent Defense Program has worked closely with Casey Family Programs and Be Better Now Mentoring to pilot a Parent Partner Program which will provide clients with a Parent Partner, a person with lived experience in the child welfare process trained to assist parent/clients. OSPD is piloting this program on the Gulf Coast and in Lee County.

OSPD has hired an Interdisciplinary Team Coordinator to oversee and provide support for our Interdisciplinary Team Project including parent partners and social workers. The coordinator is currently working as a part-time contractor funded with grant money.

Parent Defense is providing training and technical assistance to parent defenders across the state and providing expertise across the system. Jennifer Morgan, program director, participated in a panel discussion at the Youth Court Judges and Referees conference in September and presented at the Judicial College GAL training program in December.

In the direct representation area, we are managing joint state-local projects in the First Chancery District (seven counties with six part-time attorneys), Lee County (interdisciplinary team of two part-time attorneys, a part-time and fulltime social worker and a parent partner), a part-time defender in Hinds, two attorneys at the Center for Legal Services (Gulfport office serving the Coast and Hattiesburg office serving the Pine Belt), and fulltime defenders in Hancock and DeSoto. Parent Defense has also filed appellate briefs in three cases and is awaiting record preparation on a fourth.